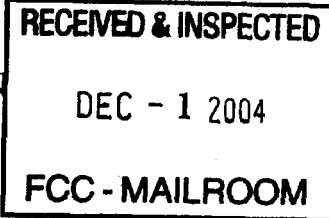


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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554



Petition of the Nebraska Public Service Commission for expedited decision for authority to implement additional number conservation measures)	NSD File No.
)	
)	
)	
In the Matter of)	CC Docket No. 99-200
)	
Numbering Resource Optimization)	
)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996)	CC Docket No. 96-98
)	

**THE NEBRASKA PUBLIC SERVICE COMMISSION'S PETITION
FOR ADDITIONAL DELEGATED AUTHORITY
TO IMPLEMENT NUMBER CONSERVATION MEASURES**

INTRODUCTION

The Nebraska Public Service Commission (NPSC) hereby respectfully submits this Petition for an expedited decision for Authority to Implement Additional Number Conservation Measures (Petition). The NPSC requests this authority so that it can implement number conservation measures to ensure that the public is protected from the unnecessary costs and confusion related to area code splits or overlays, particularly when numbering resources exist in Nebraska to prevent it.

The Telecommunications Act of 1996 (1996 Act)¹ allows the FCC to delegate to state commissions or other entities jurisdiction over numbering. Nebraska appreciates the FCC's understanding of the states' need for immediate action in order to optimize number conservation measures. In the *Numbering Resource Optimization Notice*,² the FCC concluded that thousands-block number pooling is an important numbering resource optimization strategy, essential to

¹ Pub. L. No. 104-104, 110 Stat. 56 (1996 Act).

² See *Numbering Resource Optimization Notice*, 14 FCC Red at 10383-84.

extending the life of the NANP. In the *Numbering Resource and Optimization First Report and Order*,³ the Commission held that state commissions seeking thousands block number pooling authority first demonstrate that 1) an NPA in its state is in jeopardy; 2) the NPA in question has a remaining life span of at least a year; and 3) that the NPA is in one of the largest 100 metropolitan statistical areas (MSAs), or alternatively, the majority of wireline carriers in the NPA are LNP capable.⁴ The Commission further recognized however that “special circumstances” may exist in which pooling would be beneficial in the NPAs that do not meet all of the above criteria, and stated that it may authorize mandatory pooling in such an NPA upon a satisfactory showing by a state commission of special circumstances.⁵ In 1998, the Commission adopted the Pennsylvania Numbering Order⁶ where it delegated authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus. In the Pennsylvania Numbering Order, the FCC also encouraged state commissions to seek further limited delegations of authority to implement number conservation measures.⁷

The geographic scope of availability of LNP has dramatically expanded following the May 24, 2004 LNP mandate for areas outside the top 100 MSAs, while the scope of mandatory number pooling is limited to only the top 100 MSAs.⁸ The NPSC requests delegated authority to require mandatory implementation of number pooling for rate centers in which such action will extend the life of the area code by utilizing existing resources that would otherwise remain

³ See *Numbering Resource Optimization*, CC Docket No. 99-200, FCC 00-104, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 7574 (Mar 31, 2000) (*Numbering Resource Optimization First and Order*).

⁴ See *id.* at 7652.

⁵ See *id.*

⁶ See *In the Matter of the Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998).

⁷ See *id.*

⁸ See *In the Matter Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, ¶29 (November 10, 2003).

stranded. While the NPSC has not been told the 402 area code is “officially” in jeopardy, the NPSC asserts that all other criteria have been or can be met and that special circumstances warrant a grant of additional authority to the NPSC so that it may implement mandatory thousands block pooling.

HISTORY

In 1947, the 402 area code was introduced as Nebraska’s first area code to serve the entire state. Seven years later, in 1954, the western portion of Nebraska was split off to form the 308 area code. The 402 area code serves portions of two Local Access and Transport Areas (LATAs); 644 Omaha and 958 Lincoln. The Omaha Metropolitan Statistical Area (MSA) is included in area code 402. Qwest Corporation and Alltel are the two major ILECs in the 402 area code, have the large majority of access lines in the 402 area code,⁹ and are both LNP capable. In June of 1999 the NPSC was informed by the North American Numbering Plan Administrator (NANPA) that the 402 area code was forecasted to exhaust in the fourth quarter of 2000. As a result, the NPSC opened Docket Nos. C-2057¹⁰ and C-2233¹¹ to conduct an investigation into the potential exhaust of assignable telephone numbers within the 402 area code and to conserve assignable numbers. An industry workshop was conducted under C-2057 to arrive at a consensus for a relief plan for the 402 area code. In September of 1999, the NPSC was informed by the NANPA that the industry had not reached consensus on a single relief plan but did reach consensus in submitting four plans – one overlay and three geographic split plans. Subsequent efforts by the NPSC and carriers resulted in the voluntarily donation of numbering

⁹ See Nebraska Public Service Commission 2004 Annual Report on Telecommunications (electronic access at www.psc.state.ne.us).

¹⁰ See Docket No. C-2057, *The Commission, on its own motion, seeking to conduct an investigation into the potential exhaust of assignable telephone numbers within the 402 area code* (June 1999).

¹¹ See Docket No. C-2233, *The Commission, on its own motion, seeking to conduct an investigation into the conservation of assignable numbers* (August 8, 2000).

resources back to the numbering administrator. This action resulted in the push back of the forecasted exhaust date for the 402 area code. Meanwhile, the Commission continued to investigate other methods of number conservation. Also, in September of 1999, the NPSC filed a petition with the FCC for additional delegated authority to implement area code conservation methods for the 402 area code (NSD File No. L-99-83). In July of 2000, Nebraska was granted the authority to implement thousands-block number pooling in the Omaha MSA.¹²

In addition, in Docket No. C-2830, the NPSC urged a major Nebraska carrier to consider rate center consolidation in rate centers adjacent to a major metropolitan area. On October 3, 2003 the carrier completed consolidation of nine rate centers into five rate centers resulting in a significant number of previously stranded numbering resources being made available to a wider geographic area.

The NPSC has historically taken proactive measures to promote the efficient use of numbering resources in the 402 area code as demonstrated by the continued extensions to the forecasted exhaust date to the 402 area code.

NPA	2000	2001	2002	2003	2004
402	2Q2001	1Q2004	1Q2005	2Q2005	2Q2006

Most recently, in Docket No. C-3049,¹³ the Commission opened an investigation into possible solutions for extending the life of area codes 308 and 402. The NPSC organized a working group made up of staff and industry to collaborate and reach a consensus on voluntary number conservation measures; measures short of mandatory pooling. While the working group has found some alternatives which most agree are technically feasible, most if not all measures

¹² See *In Re Numbering Resource Optimization Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 99-200, CC Docket No. 96-98, DA 00-1616 Order, , 15 FCC Red. 23,371 (Jul 20, 2000).

¹³ See Docket No. C-3049, *In the Matter of the Commission, on its own motion, to conduct an investigation into possible solutions for extending the life of area codes 308 and 402* (November 13, 2003).

would be very costly to implement and are only short-term solutions. Accordingly, carriers have been reluctant to commit to such alternatives.

Concurrent with this Petition, the NPSC is studying the costs consumers would have to bear in the event that the NPSC would need to order an overlay or a split of the 402 area code. While the NPSC has not yet required carriers to implement a code overlay or split, the NPSC believes that taking such a drastic measure should not be necessary given the rural nature of the state where the numbers attributable to the 402 and 308 codes are not fully utilized.

DISCUSSION

Recently, it has come to the NPSC's attention that more prefixes are being requested than previously anticipated due to increased competition and emerging technologies. Of particular concern to the NPSC, are the increasing requests for full ten thousand block codes in rural areas. The Commission encouraged new entrants and competitive carriers to request unused numbers from existing carriers. Unfortunately, despite the Commission's best efforts some carriers have chosen not to participate in optional pooling and continue to request full NXX codes. In the 402 area code 704 central office codes (7,040,000 assignable numbers) have been issued in support of a population base of 1,378,424. The utilization rate for the 402 area code is only 36%. Yet only 123 blocks have been assigned from the pooling administrators pool of 704 available blocks. As in other states, carriers in Nebraska are reluctant to participate in voluntary pooling in rate centers outside the top 100 MSAs. The NPSC is concerned that thousands of numbers will continue to be stranded in the rural areas.

Accordingly, the Commission would like the authority to order mandatory thousands-block pooling in LNP-capable rate centers located outside the nation's top 100 MSAs where such action will extend the life of the area code by utilizing existing resources that would otherwise

have remain stranded. This authority would allow the NPSC to ensure that numbers are assigned in thousand-number blocks rather than blocks of ten thousand. Upon implementation carriers would return any existing unused blocks meeting the contamination level to the pool for reassignment to other carriers.

In support of the Petition, the NPSC states that the 402 area code includes one of the top 100 metropolitan statistical areas (MSA's) and includes areas where the largest carriers, and accordingly the overwhelming majority of access lines, are LNP capable. The Omaha MSA, which is among the top 100, includes rate centers in the 402 area code. While the 402 area code is not currently in "official" jeopardy, the NPSC believes that the exhaust date of 2Q2006 is optimistic. The NPSC believes that when considering the pace at which wireline, wireless and other providers are requesting ten thousand blocks, realistically, the code will exhaust more quickly than predicted.

STATUS OF CENTRAL OFFICE CODES IN NEBRASKA

Central Office Codes

The NPSC makes this request for the 402 area code, which is scheduled to exhaust on or before the second quarter of 2006. The NPSC has and will continue to explore all avenues with carriers, by continuing to encourage voluntary pooling and reclamation of numbers, working with carriers and their business plans to ensure their needs are met, and investigating further rate center consolidation.

Specifically, the status of Central Office Codes in Nebraska as of November 9, 2004 is as follows:

Area Code	Number of Exchanges	Central Office Codes Assigned	Central Office Codes Available	Forecasted Exhaust Date
308	178	300	477	2Q2026
402	283	707	76	2Q2006

Voluntary Pooling

Voluntary Pooling has only resulted in some thousands-block donations and utilizations in each area code. The Pooling Administrator changed the Area Code 402 blocks from “excluded” to “voluntary” on April 5, 2004 at the request of the NPSC.

Area Code	Thousands-Blocks Assigned		Thousands-Blocks Available	
	Exchanges	Thousands-Blocks	Exchanges	Thousands-Blocks
308	17	26	39	303
402	28	123	60	704

C-3049 Working Group

The C-3049 Working Group is finalizing their evaluation of the alternative pooling method suggested by the Nebraska Rural ILECs. While there is concurrence on the technical feasibility of the proposed method, there is disagreement on the practicality of the implementation.

Area Code 402 Forecasted Exhaust Date

In conjunction with the C-3049 efforts, the NPSC requested NeuStar to conduct a pro forma evaluation of the impact of mandatory pooling on the forecasted exhaust date for Area Code 402. The evaluation considered only those exchanges in which there are currently two or more carriers. The evaluation indicated that mandatory pooling could move the Area Code 402 forecasted exhaust date from 2Q2006 to 3Q2010.

The NPSC plans to work with the industry and consumers before any further action is taken. However, the NPSC hopes to implement mandatory number pooling so that it can save consumers from the unwarranted expense of a split or overlay.

For the reasons set forth herein, the NPSC respectfully submits that the 402 NPA meet the special circumstances test and requests an order delegating it the authority require mandatory thousands-block number pooling in the 402 NPA.

CONCLUSION

The NPSC requests additional delegated authority so that it can prolong the life of the 402 area code. The NPSC hopes that its measures will prevent the imposition of additional burdens on the public. Since time is of the essence to ensure that number conservation measures have the maximum affect on reducing the demand for numbering resources, and to avoid premature area code relief, the NPSC respectfully requests that the Commission grant its request for additional delegated authority on an expedited basis.

Dated this 23rd day of November, 2004.

Respectfully Submitted,

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